

# McNamara Declaration

## Exhibit 53

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DEVIN G. NUNES,

PLAINTIFF,

-against- Case No.:  
22-cv-1633  
(PKC)

NBCUNIVERSAL MEDIA, LLC,

DEFENDANT.

-----X  
DATE: July 26, 2024

TIME: 10:00 a.m. EST

- CONFIDENTIAL ATTORNEYS' EYES ONLY -

REMOTE DEPOSITION of NICHOLAS  
CIARLANTE, taken by the Defendant, pursuant  
to a Subpoena and to the Federal Rules of  
Civil Procedure, held remotely via Zoom  
Videoconference, before Suzanne Pastor, a  
Notary Public of the State of New York.

1 during that time period?

2 A. Almost daily.

3 Q. What would you communicate with  
4 him about, broadly speaking? Without going  
5 into committee business. I'm more talking  
6 about the general topics and types of  
7 communications.

8 A. Sure. So some of it would be  
9 about the committee schedule; if there was  
10 a conflict with, say, a larger GOP member  
11 meeting or a democratic member meeting, if  
12 we had to reschedule something. So it  
13 would be about the committee schedule.  
14 Topics for briefings and events, just so he  
15 was aware of what was coming down the  
16 agenda.

17 Once I assumed the  
18 responsibility of having oversight over the  
19 ODNI, I would be talking to him about  
20 issues that I saw at the ODNI; legislative  
21 reforms that we could possibly do. And I  
22 was staffing him so he would ask for advice  
23 and counsel based on my expertise of either  
24 the House policies and procedures, or if I  
25 was staffing him regarding an issue within

1 the intelligence community.

2 Q. I see, and so when you would  
3 communicate with Mr. Nunes, how typically  
4 would you communicate with him? What was  
5 the means of communication?

6 A. Sure. So if it was a  
7 classified discussion, it would have  
8 happened in the committee space, which is  
9 the SCIF, the sensitive compartmented  
10 information facility.

11 If it was nonclassified  
12 information that we were discussing, we  
13 would discuss over the phone or in person  
14 in his office.

15 Q. Would you ever e-mail or text  
16 with Representative Nunes?

17 A. Occasionally text, but no  
18 e-mail.

19 Q. No e-mail, okay. Would any of  
20 your advice that you just described to  
21 Mr. Nunes, would that ever be written down  
22 or memorialized anywhere?

23 A. No.

24 Q. It was all verbal?

25 A. Yes.

1 Q. And you didn't have a practice  
2 of keeping notes of your meetings with  
3 Representative Nunes?

4 A. Not with Mr. Nunes.

5 Q. With other people?

6 A. If I had attended a briefing  
7 with an external agency, certainly I would  
8 have notes of items that we had discussed.  
9 But I generally did not memorialize any  
10 internal staff conversations or  
11 conversations with members.

12 Q. Understood. So when you  
13 departed the House Intelligence Committee,  
14 you then went to the office of the Director  
15 of National Intelligence, correct?

16 A. Yes, that is correct.

17 Q. And what did you do at the  
18 Office of National Intelligence? Or office  
19 of the Director of National Intelligence.

20 A. Sure, I was the deputy chief  
21 operating officer.

22 Q. And what were your  
23 responsibilities there?

24 A. Sure, so I was responsible for  
25 providing support to the, then it was the

1 the FBI, what was the means of  
2 communication that you'd use?

3 A. Sure, so it would have been  
4 either e-mail or phone call.

5 Q. And did you have a practice of  
6 copying other individuals when you would  
7 e-mail them?

8 A. I think it would depend on --  
9 depend on the circumstance. If it was a  
10 member letter that I was sending, sometimes  
11 copy the staff director on the letter. If  
12 it was just a request for information, I  
13 would just likely copy myself so I had a  
14 copy for my FBI oversight folder.

15 Q. Got it, okay. When you say  
16 copy yourself, you just mean you would add  
17 yourself as a cc on your own e-mail?

18 A. Yes, that is correct.

19 Q. And it would be at the same  
20 e-mail address.

21 A. Yes.

22 Q. When you would communicate with  
23 members who served on the committee, how  
24 would you go about communicating with them?

25 A. Sure, so every member is

1 different. Some you could e-mail directly,  
2 so there are times where I e-mailed a  
3 member directly. Some members I  
4 communicated through their staff. There  
5 would be times where I communicated with a  
6 member in person or via the phone.

7 Q. Did you have much interaction  
8 with Representative Rick Crawford?

9 A. Yes. He was a member of the  
10 committee.

11 Q. And what was his practice,  
12 generally, in that respect with respect to  
13 communicating?

14 A. He was a member that allowed  
15 direct contact. So there's certainly times  
16 where I would have called him directly or  
17 e-mailed him directly.

18 Q. When you would communicate with  
19 staffers for a particular congressman, how  
20 would you typically go about doing that?

21 A. Sure, again, so e-mail or phone  
22 or in person.

23 Q. And with respect to  
24 communications with other HPSCI staffers,  
25 what were the means of communication that

1 you would use?

2 A. Sure, so again, e-mail. At the  
3 committee we had an internal high side, so  
4 if we were dealing with classified  
5 materials, there would be a way for us to  
6 correspond on a classified network as well  
7 as the same means to communicate  
8 unclassified e-mail, or mostly in person  
9 since we were within the same office space.

10 Q. And during your time at HPSCI,  
11 either stint, did you have any  
12 communications with the press?

13 A. I did, yes.

14 Q. So during which time -- was  
15 that during both time periods or one or the  
16 other?

17 A. No, it would -- I'm sorry. It  
18 would have been during the first period  
19 when we were in the majority.

20 Q. And so what types of  
21 communications with the press would you  
22 have?

23 A. Sure, there were a couple  
24 instances where Mr. Langer, the  
25 communications director for the committee,

1 authorized me to go on background to  
2 provide information to the press. And he  
3 would been on those calls with me.

4 Q. When you say "on background  
5 with the press," what types of -- what is  
6 your understanding of "on background"?

7 A. Sure, so it was primarily -- it  
8 was during the Russian investigation. So I  
9 was providing process and context  
10 information to them, especially how many  
11 witnesses had been interviewed or if they  
12 had a procedural question about the  
13 committee's rules or the process of  
14 notifying a hearing or briefing. That's  
15 the information I would provide. And "on  
16 background" means I was not attributed to  
17 the information that they would be  
18 reporting.

19 Q. Was there a reason why  
20 Mr. Langer asked you to go on background  
21 when speaking with the press?

22 A. I was not the communications  
23 director, so my understanding is that from  
24 the direction only he could be actually  
25 quoted in any type of press.

1       been -- that they were gone.

2           Q.     Do you know how long records  
3     are preserved once a staff member leaves  
4     the House?

5           A.     I do not, no.

6           Q.     Am I correct that you would  
7     have access to e-mails from this account  
8     from January 2021 onward? Is that an  
9     accurate statement?

10          A.     So the e-mails that I have  
11     access to currently are only from my time  
12     with the Sergeant at Arms. So even when I  
13     left HPSCI the second time, while I have  
14     the same e-mail address, the in box itself  
15     did not follow me. Because those are  
16     committee records, they stay at the  
17     committee. So I started with a fresh in  
18     box, fresh set of contacts. The only thing  
19     that was the same was the  
20     Nick.Ciarlante@mail.house.gov.

21          Q.     Remind me, what date was it  
22     that you left HPSCI? For the most recent  
23     time I should say.

24          A.     Sure. April 1, 2023 was my  
25     first day of employment with the Sergeant

1 at Arms. So the last day of March would  
2 have been my final day on HPSCI's payroll.

3 Q. When was it that you first  
4 learned about this lawsuit filed by  
5 Mr. Nunes?

6 A. When there was media reporting.  
7 I believe when it was first filed. I don't  
8 know when that actually occurred, but I did  
9 see the media reporting.

10 Q. Did you ever receive a document  
11 retention notice about this lawsuit?

12 A. I did not. Just the subpoena.

13 Q. So the first time counsel for  
14 Mr. Nunes contacted you about this lawsuit  
15 was in July of 2023?

16 A. Yes, to tell me that I had been  
17 subpoenaed. That is correct.

18 Q. And that was four months after  
19 you had left the House Intelligence  
20 Committee, just to be clear. Roughly.

21 A. Yes.

22 Q. So did you at any point prior  
23 to leaving HPSCI search for records that  
24 were relevant to this lawsuit?

25 A. I did not.

1 Q. Are you aware of whether the  
2 House Intelligence Committee received a  
3 document retention notice for your e-mails?

4 A. I am not aware of that.

5 Q. Did you have a computer that  
6 was issued to you from the House of  
7 Representatives?

8 A. I had a, yeah, a desktop that I  
9 used on a daily basis, yes.

10 Q. And did you save any documents  
11 on this computer while you worked at the  
12 House of Representatives?

13 A. Everything was primarily saved  
14 on the -- not the Google Drive. The 365,  
15 the iCloud drive. Or whatever -- it's not  
16 iCloud. One Drive. The House moved to  
17 Office 365. So when I was doing classified  
18 work, everything was saved on that drive.

19 Q. So any records that you -- let  
20 me put it this way. Any documents that you  
21 worked on while at HPSCI would have been  
22 preserved on their system at large.

23 Putting aside communications.

24 A. Yes.

25 Q. Did you have a cellphone that

1 was issued to you as part of your job  
2 working for HPSCI?

3 A. I did, yes.

4 Q. And what happened to that  
5 cellphone each time you left HPSCI? Did  
6 you have to turn it back in?

7 A. Yes.

8 Q. And do you know what happened  
9 to the communications that resided on that  
10 cellphone?

11 A. When I turned it back in, the  
12 instruction was to wipe it and then give it  
13 back. And that --

14 Q. So all text -- sorry. I didn't  
15 mean to --

16 A. I'm sorry. And that was  
17 consistent both times, to wipe the devices  
18 when they're turned in.

19 Q. So that would be inclusive of  
20 any text messages that may have existed on  
21 that phone at that time.

22 A. Yeah, they would have been  
23 wiped.

24 Q. You had previously testified  
25 though that you did text with Mr. Nunes on

1 occasion.

2 A. Mm-hmm.

3 Q. And did you do so on that  
4 phone?

5 A. Yes, I did.

6 Q. Did you have a personal  
7 cellphone also during that time period?

8 A. I do, yes, and I did.

9 Q. And did you communicate with  
10 Representative Nunes or other staff members  
11 using your personal phone ever?

12 A. I think maybe once or twice for  
13 Mr. Nunes, if it was something campaign or  
14 political related. But anything official  
15 would have been on the official device.

16 Q. And the same goes for staffers  
17 of HPSCI?

18 A. Yeah, I don't think I -- other  
19 than the HPSCI staffers who I was friends  
20 with outside the office, I would not have  
21 conducted any official business on my  
22 personal device.

23 Q. So it's fair to say that you  
24 haven't preserved any records related to  
25 this lawsuit prior to leaving HPSCI.

1 A. That is correct.

2 Q. Just to close the loop on an  
3 earlier line of questioning, I asked you if  
4 you had received a document retention  
5 notice in relation to this lawsuit. Did  
6 you receive any oral instructions to  
7 preserve documents in connection with  
8 this --

9 A. I did not.

10 Q. Are you aware of other  
11 defamation lawsuits that Mr. Nunes filed  
12 while you were working through HPSCI?

13 A. I am, through public reporting.

14 Q. Which ones are you aware of,  
15 sitting here today?

16 A. Yeah, so there's obviously this  
17 one, and I believe there was one against  
18 the Washington Post.

19 Q. And were you ever instructed to  
20 preserve documents in connection with those  
21 lawsuits?

22 A. I was not.

23 Q. I think I know the answer to  
24 this, but do you know if Mr. Nunes  
25 preserved his own documents or

1 communications relevant to this lawsuit?

2 A. I do not know that.

3 Q. Mr. Ciarlante, are you aware  
4 that Mr. Nunes received a package of  
5 materials from Andrii Derkach when he was  
6 the ranking member of the House  
7 Intelligence Committee?

8 A. I am.

9 Q. To your knowledge, when did  
10 Mr. Nunes receive this package from  
11 Mr. Derkach?

12 A. I believe it was in the late  
13 November/early December time frame of 2019.

14 Q. And are you aware that  
15 Mr. Nunes's complaint in this action  
16 alleges that he received the package on  
17 December 11, 2019?

18 A. I would have read that in the  
19 complaint, but.

20 Q. Do you understand that to be an  
21 accurate statement, as far as you know?

22 A. I'm sorry, can you repeat that,  
23 please?

24 Q. Do you understand that to be an  
25 accurate statement of when he received the

1 the scanning seal that it had been  
2 delivered in.

3 Q. I see, that makes sense.

4 Okay, so once it was inspected  
5 by the Capitol police, what happened next?  
6 What did you do with the package?

7 A. Sure, so once it was cleared by  
8 the Capitol police and brought back to the  
9 office, I was directed to put it in a lock  
10 bag and to lock it in my safe.

11 Q. And how long did it remain in  
12 your safe?

13 A. Probably not more than two  
14 days.

15 Q. And so who gave you that  
16 direction?

17 A. That came from Mr. Langer on  
18 behalf of Mr. Nunes.

19 Q. Were there any meetings with  
20 respect to the package?

21 A. None that I was a part of.

22 Q. How did Mr. Langer provide  
23 these instructions to you --

24 A. On the phone.

25 Q. -- what method? On the phone?

1 A. Yes.

2 Q. Was anyone else in the SCIF  
3 when you brought the package in? If you  
4 recall.

5 A. Yeah, I mean, there would have  
6 been majority and minority staff sitting at  
7 their desks.

8 Q. Was anyone else aware that  
9 there was a package sent from Andrii  
10 Derkach?

11 A. On --

12 Q. Who was in the SCIF at that  
13 moment.

14 A. No.

15 Q. Did you tell any other  
16 Republican staff about the receipt of the  
17 package?

18 A. I did not.

19 Q. Did you tell anyone about the  
20 receipt of the package other than  
21 Mr. Langer?

22 A. I did not.

23 Q. Did you have a conversation  
24 with George Pappas about the package?

25 A. I did not have a conversation

1 with him, but it's possible he might have  
2 been aware since he was a senior advisor to  
3 Devin that there was something coming.  
4 Excuse me, Mr. Nunes.

5 Q. At that point in time Alan  
6 Souza was the staff director, correct?

7 A. Yes.

8 Q. Did you have any conversations  
9 with him about the receipt of the package?

10 A. I did not.

11 Q. Would it have been -- would  
12 that have been something that you would  
13 have done normally if there was a package  
14 that came in for a particular congressman?

15 A. No.

16 Q. Did the receipt of the package  
17 raise any suspicions for you?

18 A. It did, because Mr. Langer had  
19 called asking if there was a package. And  
20 then I was instructed to put it in a lock  
21 bag and lock it in the safe.

22 Q. But beyond that it didn't cause  
23 any concern?

24 A. Unh-unh.

25 Q. At the time the package was

1 received, did you know who Andrii Derkach  
2 was?

3 A. I did not.

4 Q. When did you first learn who  
5 Andrii Derkach was?

6 A. It was probably in a later  
7 conversation with Mr. Langer that he  
8 mentioned that he was a Ukrainian  
9 parliamentarian.

10 Q. Were you aware that he was a  
11 Russian agent at the time?

12 A. I was not.

13 Q. Did you come to learn that  
14 later?

15 A. I did not know that.

16 Q. Are you aware that on  
17 March 15th, 2021 the office of the Director  
18 of National Intelligence declassified a  
19 report entitled "Foreign threats to the  
20 2020 U.S. federal elections"?

21 A. I am aware of that report.

22 Q. That report was issued while  
23 you were still at the Office of the  
24 Director of National Intelligence, correct?

25 A. If it was dated March 2021, I

1           A.     My answer is going to be the  
2     same. I still don't think there was any  
3     obligation. From this letter, he sent a  
4     letter to the Attorney General expressing  
5     his concern, requesting a meeting. Again,  
6     I still don't think there was an obligation  
7     that he had to tell anybody about it.

8           Q.     Are you aware of whether there  
9     was a log of incoming and outgoing official  
10   letters at HPSCI?

11          A.     During which period?

12          Q.     The time at issue.

13          A.     Sending a letter to an agency  
14     was routine -- a routine part of business.  
15     Sending an oversight letter, especially if  
16     a staff requested it to have been  
17     fulfilled, sending something with a  
18     member's signature on it has more force  
19     than a staff e-mail.

20          Q.     Right, but outgoing letters to  
21     other agencies, were they recorded in some  
22     fashion?

23          A.     Yes. All letters that were  
24     sent out of the committee were -- during my  
25     time were maintained in the committee's

1 records.

2 Q. Are you aware if there's any  
3 sort of similar log maintained out of a  
4 congressman's personal office?

5 A. So from my time in the member  
6 office, there is a database where you track  
7 correspondence, especially if it's from a  
8 constituent, you input into the database so  
9 you can keep track of the running  
10 interactions that you have with your  
11 constituency.

12 Q. Does anyone outside of a  
13 congressman's office have access to that  
14 database?

15 A. Not that I'm aware of.

16 Q. So it's fair to say that this  
17 letter that came from his personal  
18 letterhead, his personal office was not  
19 logged by HPSCI, is that correct?

20 A. It would not have been -- yes,  
21 that's correct. It would not have been  
22 logged by HPSCI.

23 Q. And no other representatives  
24 would have had access or been aware that  
25 this letter was sent, is that correct?

1           A.     Unless it was disclosed  
2     publicly.

3           Q.     And that would include the  
4     Democratic members as well, correct?

5           A.     Correct. Unless it was  
6     disclosed publicly.

7           Q.     Do you know if a meeting ever  
8     occurred between Mr. Nunes and Attorney  
9     General Barr in response to this letter?

10          A.     I'm not aware. I don't believe  
11     one did, but I'm not certain.

12          Q.     Do you know if Mr. Nunes ever  
13     spoke with any of Mr. Barr's staff  
14     regarding this letter?

15          A.     So as part of my turning the  
16     package over to the FBI, a briefing with  
17     the Washington field office of the FBI was  
18     set up. FBI does fall under Justice.

19          Q.     Where did that briefing occur?

20          A.     It was in Mr. Nunes's office in  
21     Longworth.

22          Q.     Were you in attendance at that  
23     meeting?

24          A.     I was not.

25          Q.     Were you ever briefed about

1 what happened at that meeting?

2 A. I was not.

3 MR. CHASE: Ali, if you could  
4 go to paragraph 13 of this.

5 Q. You could see at the top of the  
6 page, Mr. Ciarlante, this is in paragraph  
7 13 of the amended complaint, it says, "The  
8 same day, the designated staff member in  
9 plaintiff's office, following protocol and  
10 without the package ever being opened,  
11 sealed the package in an envelope and  
12 delivered it to the FBI. Additionally, in  
13 early January 2020, plaintiff and top  
14 Republican staff on the House Intelligence  
15 Committee briefed the FBI on their concerns  
16 about the package."

17 Is that an accurate statement?

18 A. I don't recall if it was the  
19 same day I turned the package over to the  
20 FBI. I called the FBI probably that day,  
21 and it might have been the next day when  
22 they actually came to pick it up. But it  
23 could have been the same day. I don't have  
24 those -- access to their calendar or the  
25 e-mails that I would have sent arranging

1 of an interview that they conduct during an  
2 investigation.

3 MR. CHASE: Ali, can you put up  
4 Exhibit 30.

5 Q. Mr. Ciarlante, this is a FBI  
6 302 that was produced to us by the FBI in  
7 response to a TUI request for  
8 communications with Representative Nunes's  
9 office concerning the Derkach package.

10 MR. CHASE: Ali, if you could  
11 scroll down.

12 Q. So this reads, "On January 8,  
13 2020, Nicholas Ciarlante, Republican budget  
14 director and investigations coordinator,  
15 U.S. House of Representatives Permanent  
16 Select Committee on Intelligence (HPSCI),  
17 contacted the undersigned, SSA," then  
18 redaction, "Jay Bratt, DOJ," I believe  
19 that's National Security Division, but I'm  
20 not positive.

21 A. It is.

22 Q. "And another redacted personnel  
23 from the DOJ Office of Legislative Affairs,  
24 via e-mail advising representative Devin  
25 Nunes received additional records via mail

1 (see FD-302 of meeting with FBI/DOJ on  
2 December 19, 2019). The records were  
3 picked up from Ciarlante by SSA," redacted,  
4 "and delivered to the undersigned." Did I  
5 read that correctly?

6 A. You did, yes.

7 Q. It continues, "The records  
8 include a cover letter dated December 17,  
9 2019 from Andrii Derkach, member of the  
10 parliament of the Ukraine, to Nunes.  
11 Included are five categories of documents  
12 listed as," and then a large redaction.

13 And then it says, "The records  
14 were included in a DHL shipment envelope  
15 and internal envelope, and were opened,  
16 inspected, and resealed by the House mail  
17 clearing service. The cover letter and  
18 attachments are attached hereto in PDF and  
19 all original records maintain in the 1A  
20 envelope. E-mail correspondence from  
21 Ciarlante is included therein."

22 So I just want to ask you a few  
23 questions about this.

24 A. Mm-hmm.

25 Q. So you see this FBI document

1 shows that you contacted the FBI on  
2 January 8th, 2020 about the Derkach  
3 package. Does that sound right to you?  
4 Does that refresh your recollection?

5 A. I just don't know the date.

6 You know, if the package was received in  
7 December, I would not have waited until  
8 January to contact the FBI.

9 Q. It also says that you contacted  
10 the FBI via e-mail. I believe you said  
11 that earlier.

12 Do you see the reference that  
13 it's "additional records" that were  
14 received via e-mail? Do you know what  
15 that's a reference to?

16 A. I do not. This is the first  
17 time I've seen this FBI document.

18 Q. Do you have an understanding  
19 that Mr. Nunes received another package  
20 from Mr. -- excuse me, I'll strike that.

21 Do you have an understanding of  
22 whether Mr. Nunes received other records  
23 from Mr. Derkach at some other point in  
24 time?

25 A. To the best of my recollection,

1 there was only that one package.

2 Q. So you don't know what this is  
3 a reference to?

4 A. I do not. Like I said, this is  
5 the first time I've seen this FBI document.

6 Q. And it says the records include  
7 a cover letter dated December 17, 2019 from  
8 Andrii Derkach. Does that sound right to  
9 you?

10 A. I did not see the material, so  
11 I don't even know if there's a cover  
12 letter, if there was a cover letter  
13 included in the package.

14 Q. If you'll recall earlier the  
15 letter that Mr. Nunes sent to Attorney  
16 General Barr was dated December 11, 2019.  
17 Does that sound right to you?

18 A. It does, yes.

19 Q. Do you have any understanding  
20 as to why this summary from the FBI would  
21 conflict with what's been pled in the  
22 complaint?

23 A. I do not. I'm not sure of the  
24 FBI's policies and procedures in drafting  
25 such a document.

1 Q. Do you recall a meeting with  
2 the FBI -- strike that.

3                   Earlier you testified that you  
4 would have turned the package over to the  
5 FBI --

6 A. Mm-hmm.

7 Q. -- a day or two after it was  
8 received, is that correct?

9 A. Yes.

10 Q. So does the reference here  
11 where it says "see FD-302 of meeting with  
12 FBI/DOJ on December 19, 2019," does that  
13 suggest to you that that was the day that  
14 you turned over the package to the FBI?  
15 Does that sound like that could be correct?

16 A. So looking at this document,  
17 where they say "see FD-302 of meeting with  
18 FBI/DOJ on 12/19," that indicates that  
19 would have been likely the meeting with  
20 Mr. Nunes and the Washington field office,  
21 and the package was turned over in advance  
22 of that meeting.

23 Q. So you have no idea what this  
24 reference to your receipt of "additional  
25 records via e-mail" was.

July 26, 2024

## 1                   C E R T I F I C A T E

2                   STATE OF NEW YORK                 )  
3    :  
4                   COUNTY OF DELAWARE                 )5                   I, SUZANNE PASTOR, a Notary Public  
6                   for and within the State of New York, do  
7                   hereby certify:8                   That the witness whose examination is  
9                   hereinbefore set forth was duly sworn and  
10                  that such examination is a true record of  
11                  the testimony given by that witness.12                  I further certify that I am not  
13                  related to any of the parties to this  
14                  action by blood or by marriage and that I  
15                  am in no way interested in the outcome of  
16                  this matter.17                  IN WITNESS WHEREOF, I have hereunto  
18                  set my hand this day, August 9, 2024.

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Suzanne Pastor

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